

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-20 are pending in the present application, of which claims 1, 6, 11 and 16 are independent.

**Noted - Priority Document Received By USPTO**

The indication (see attachment to the Office Action mailed June 17, 2008) that the certified copy(ies) of the priority document(s) has been received by the USPTO is noted with appreciation.

**Noted - IDS Considered**

The indication (see attachment to the Office Action mailed June 17, 2008) that the Information Disclosure Statement (IDS) as filed on February 13, 2004 and references listed therein have been considered is noted with appreciation.

**Noted - Drawings Approved**

The indication (see attachment to the Office Action mailed June 17, 2008) that the Drawings (submitted on February 13, 2004) have been approved is noted with appreciation.

**Claim Rejection Under 35 U.S.C. §101**

Claims 16-20 are rejected under 35 U.S.C. §101 because the claimed invention is directed to a computer program, which is non-statutory subject matter. In particular, the Office Action asserts that the question becomes whether the terms "computer-readable recording medium" would fairly convey to one of ordinary skill in the art non-statutory embodiments such as a signal.

By the foregoing amendments, it has been clarified that the claimed invention is tied to a statutory machine or apparatus, namely, a system comprising a

processor and a memory. Accordingly, withdrawal of the rejection is respectfully requested.

Accordingly, the title of the present application has been changed to be more consistent with the claimed invention.

**Claim Rejection Under 35 U.S.C. §103**

Claims 1, 2, 5-7, 10-12, 15-17 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vlodavsky et al. (US2003/0161327, hereinafter Vlodavsky) in view of Liu et al. (US Patent 5530703, hereinafter Liu).

Claims 3, 8, 13 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vlodavsky in view of Liu and further in view of Gupta et al. (US Patent 7027394, hereinafter Gupta).

**INDEPENDENT CLAIM 1 and 6**

As an example, independent claims 1 and 6, as amended, recite (among other things) a feature of

a reception error handling unit to determine, upon occurrence of a reception error ... whether the reception error requires a retry for requiring retransmission of the packet, and to perform the retry when the reception error requires the retry.

(Underlined emphasis added). As will be explained below, at least this feature of claims 1 and 6 is a distinction over Liu.

The Office Action contends that Liu teaches the feature of claims 1 and 6:

If the packet type matches at block 460, then the packet is forwarded as indicated at block 461, else the packet is discarded. Also, if the third party network operating system flag was not turned off, then the packet is discarded and the algorithm ends as indicated as block 462. (Office Action, column 10, lines 52-56)

That is, Liu is not concerned at all about performing a retry for retransmission of the packet. Hence, the above-noted feature of claims 1 and 6 is a distinction over Liu in view of any official notice.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claims 1 and 6 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 1 and 6.

Claims 2-5 and 7-10 ultimately depend from claim 1 or 6, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 1-10 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

#### **INDEPENDENT CLAIM 11 and 16**

As an example, independent claims 11 and 16, as amended, recite (among other things) a feature similar to that noted above for claims 1 and 6. Hence, at least this feature of claims 11 and 16 is a distinction over Liu in view of any official notice for at least the same reasons set forth above for claims 1 and 6.

Among other things, a *prima facie* case of obviousness must establish that the asserted combination of references teaches or suggests each and every element of the claimed invention. In view of the distinction of claims 11 and 16 noted above, at least one claimed element is not present in the asserted combination of references. Hence, the Office Action fails to establish a *prima facie* case of obviousness vis-à-vis claims 11 and 16.

Claims 12-15 and 17-20 ultimately depend from claim 11 or 16, respectively, and so at least similarly distinguish over the asserted combination of references.

In view of the foregoing discussion, the rejection of claims 11-20 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

Dated: April 20, 2009

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